HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

Lodging No. 566 year 2003

Mahesha Nand Kukreti

Versus

Committee of Management and others.

Approved for reporting.

_____

~~Not approved for reporting~~

Date of decision. 04.12.2003

Initial of Judge

In the High Court of Uttaranchal at Nainital

Court No.6

Lodging NO. 566 of 2003

Mahesha Nand Kukreti ……..…Petitioner

Vs.

Committee of Management and anothers ……..Respondents

Date of Judgment :- 04.12.2003

Hon'ble Rajesh Tandon, J.

Heard Shri Manoj Tiwari learned counsel for the petitioner and learned Standing counsel for the State.

By the present Writ Petition, the petitioner has prayed for the issue of a writ, order or direction in the nature of certiorari for quashing the Resolution No.1 passed by the respondent no.1 by its order dated 5.10.2003.

Further prayer has been made for the issue of a writ order of direction in the nature of mandamus restraining the respondents from converting the post of Lecturer (Hindi) as reserved in place of the post of Lecturer (Economics).

Brief facts giving rise to the present writ petition are that the petitioner, who is a senior most L.T. Grade Teacher (Hindi) and stands at serial no.3 in the seniority list of L.T. Grade Teachers in the Institution, is claiming promotion to the newly created post of Lecturer (Hindi) falling under promotion quota by virtue of his seniority.

The petitioner has stated that he was initially appointed as Assistant Teacher (Hindi-Sanskrit) on regular basis in erstwhile Mangla Devi Junior High School vide order dated 9.7.1976 and his services were confirmed on the said post w.e.f. 9.7.1978.

Further the petitioner has submitted that after upgradation of the Institution as High School, the services of the petitioner was absorbed in C.T. Grade w.e.f. 1.1.1983 thereafter in view of subsequent declaration of

C.T. Grade as Dying Cadre, petitioner was merged in the Cadre of L.T. Grade Teachers w.e.f. 1.1.1993 and he is thereafter serving as Assistant Teacher L.T. Grade (Hindi).

The petitioner has further stated that the Institution was upgraded as Intermediate College in the year 1998, however, requisite posts have been created vide order dated 20.6.2003. It was further stated that after upgradation, intermediate classes were opened in the Institution in the year 1998 itself and the petitioner has been teaching the intermediate classes since 1998.

The petitioner has contended that by virtue of the order dated 5.10.2003 the promotional exercise is going to take place.

From the perusal of the order dated 5.10.2003 that it is only a recommendation.

Petitioner's grievance is that if he is found under the zone of consideration by the appointing authority, he may also be considered.

Without entering into the merits of the controversy, suffice it to state that since no orders is promotion have been passed, the present writ petition is wholly premature.

However, it will be open for the petitioner to pursue his remedy before the District Inspector of Schools.

The petitioner is permitted to file a fresh representation before the District Inspector of Schools stating his grievances, who shall decide the same in accordance with law after giving opportunity of hearing to the parties within three weeks from the filing of the certified copy of the order.

The writ petition at this stage is premature and hence no interference is required under Article 226 of the Constitution of India.

Subject to the aforesaid observations, directing for consideration of the representation, the writ petition is dismissed at the admission stage. Copy of this order may be supplied within two days (48 hours) as usual charges.

Dated 4.12.2003 **(Rajesh Tandon, J.)**

Rawat